

APPEAL NO. 030717
FILED MAY 7, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 19, 2003. The hearing officer determined that (1) the respondent's (claimant) average weekly wage (AWW) for temporary income benefits (TIBs) is \$203.72; and (2) the claimant's AWW for impairment income benefits (IIBs), supplemental income benefits (SIBs), lifetime income benefits (LIBs) and death benefits is \$501.01. The appellant (carrier) appeals the determination regarding to AWW for IIBs, SIBs, LIBs, and death benefits, on sufficiency of the evidence grounds. The claimant did not file a response. The AWW determination for TIBs was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's AWW is \$501.01, for IIBs, SIBs, LIBs, and death benefits. At issue is whether the claimant was or was not a part-time employee in the regular course of conduct for purposes of calculating AWW for IIBs, SIBs, LIBs, and death benefits. Section 408.042 (effective for a compensable injury on or before July 1, 2002); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 128.4(b) (Rule 128.4(b)). This was a question of fact for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 001340, decided July 26, 2000. The hearing officer is the sole judge of the weight and credibility of the evidence and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence. Section 410.165(a). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION INSURANCE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge